



## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

#### 7 CFR Parts 272 and 273

[FNS–2018–0037]

RIN 0584-AE62

### Revision of Categorical Eligibility in the Supplemental Nutrition Assistance

#### Program (SNAP); Withdrawal

**AGENCY:** Food and Nutrition Service (FNS), USDA.

**ACTION:** Withdrawal of proposed rule.

**SUMMARY:** This document informs the public that the Food and Nutrition Service (FNS) of the U.S. Department of Agriculture (USDA) is withdrawing the proposed rule titled *Revision of Categorical Eligibility in the Supplemental Nutrition Assistance Program (SNAP)* that published in the *Federal Register* on July 24, 2019. This rule would have refined how receipt of the Temporary Assistance for Needy Families (TANF) benefits may confer categorical eligibility for SNAP. The rule would have also required State agencies to include in their SNAP State Plan of Operations all non-cash TANF benefits and certain cash TANF benefits that confer categorical eligibility. After reviewing and considering the comments received, the proposed rule is being withdrawn.

**DATES:** As of [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], the proposed rule published on July 24, 2019, at 84 FR 35570, is officially withdrawn.

**ADDRESSES:** SNAP Program Development Division, Food and Nutrition Service, USDA, 1320 Braddock Place, Alexandria, Virginia 22314.

**FOR FURTHER INFORMATION CONTACT:** Program Design Branch, Program Development Division, FNS, 1320 Braddock Place, Alexandria, Virginia 22314.

*SNAPPDBRules@usda.gov*.

## SUPPLEMENTARY INFORMATION:

The decision to withdraw the proposed rule and maintain the current categorical eligibility regulations is authorized by section 5(a) of the Food and Nutrition Act of 2008, as amended (the Act), which provides that households in which each member receives benefits under a State program funded under part A of Title IV of the Social Security Act (SSA) (also known as Temporary Assistance for Needy Families (TANF) block grants)<sup>1</sup> shall be categorically eligible for the Supplemental Nutrition Assistance Program (SNAP). This action withdraws a proposed rule published in the **Federal Register** on July 24, 2019, (84 FR 35570), which would have revised how receipt of TANF benefits may confer categorical eligibility for SNAP. Specifically, the proposed rule would have limited the TANF “benefits” that may confer categorical eligibility to “ongoing” and “substantial” benefits. The proposed rule defined “ongoing” benefits as those that a household receives or is authorized to receive for a period of at least six months and “substantial” benefits as those valued at a minimum of \$50 per month. The proposed rule also limited the types of non-cash TANF benefits conferring categorical eligibility to those that focus on subsidized employment, work supports, and childcare. Finally, the proposed rule would have required State agencies to inform FNS of all non-cash TANF benefits that confer categorical eligibility. The proposed rule would have cost \$2.314 billion in administrative expenses between 2019-2023 and resulted in 3.1 million individuals in 1.7 million households losing SNAP eligibility in Fiscal Year 2020.

During the proposed rule’s 60-day comment period, nearly 158,000 comments were received. All the comments may be viewed by going to <http://www.regulations.gov> and searching for public submissions under docket number FNS-2018-0037. The comments

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<sup>1</sup> State programs funded under part A of Title IV of the SSA include programs funded by Federal TANF block grant funds, as well as programs funded by State maintenance-of-effort (MOE) dollars that allow a State to receive Federal TANF block grant funds. For simplicity, this notice of withdrawal will refer to all State programs funded under part A of Title IV of the SSA as “TANF-funded programs,” and to benefits from such programs as “TANF benefits.”

came from a broad range of stakeholders and generally opposed the proposed rule. Commenters opposed the rule largely due to concerns about the potential impacts on food insecurity, particularly among children, veterans, individuals with disabilities, and the elderly. Others expressed concerns that the proposed rule would discourage savings and make it more difficult for households to become financially self-sufficient and have adverse economic impacts for communities. Commenters largely opposed the proposed ongoing and substantial criteria, arguing that the criteria would have undermined the Department's stated goal of the supporting self-sufficiency, in addition to creating administrative burdens for State agencies and unnecessary barriers to program participation for applicants. Numerous commenters expressed concerns about the legality of the framework of the proposed rule.

Commenters claimed the Department did not provide valid justifications for the changes proposed, identify any evidence to support the need for a regulatory change, or adequately explain its decision-making. Many commenters argued that the proposed rule was arbitrary and capricious.

More specifically, many commenters responded to concerns raised in the proposed rule regarding the impact of expanded categorical eligibility on SNAP program integrity. These commenters disputed the proposed rule's assertion that States have abused the flexibility offered by categorical eligibility, writing that States have been responsible and methodical stewards of SNAP. Commenters also wrote that the proposed changes went well beyond shoring up the integrity of the program and were intended to reduce SNAP benefits. Several commenters suggested that the program integrity concerns cited in the proposed rule were unwarranted since all households are required to submit and verify income and other eligibility information to determine the SNAP benefit allotment.

***Withdrawal***

After reviewing and considering the comments received, the Department has determined that the proposed rule to revise categorical eligibility should not be finalized. In withdrawing this proposed rule, the Department reaffirms its longstanding categorical eligibility policy, codified in regulations at 7 CFR 273.2(j). The Department has determined that the proposed revisions did not sufficiently justify the impact on the estimated 1.7 million SNAP households that would have lost eligibility under the rule and did not adequately mitigate the disproportionate impact the rule would have had on households with an elderly member. Additionally, the Department has determined that the proposed changes and concerns raised regarding program integrity were not adequately supported by data and do not justify the costs to State agencies of implementing the change.

In withdrawing this proposed rule, the Department reaffirms the purpose of categorical eligibility to simplify the SNAP application process for both SNAP State agencies and households by reducing the amount of information that must be verified if a household has already been determined eligible to receive benefits from another assistance program specified in Sec. 5(a) of the Act. Beginning in 2009, the Department proactively encouraged States to implement expanded categorical eligibility policies in order to increase SNAP participation and reduce State administrative burdens. The Department acknowledges that the flexibility afforded by expanded categorical eligibility policies are critical to reducing the burden on needy households and State agencies administering benefit programs.

The Department agrees with the issues raised by many commenters and no longer believes that the limitations the proposed rule would have put on categorical eligibility are appropriate. Accordingly, the proposed rule to revise categorical eligibility for SNAP published in the **Federal Register** on July 24, 2019, (84 FR 35570) is hereby withdrawn.

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Cynthia Long  
Acting Administrator  
Food and Nutrition Service

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